

Notice of Allowability

Application No.

10/645,980

Applicant(s)

BARDY, GUST H. ED

Examiner

Carl H. Layno
Carl H. Layno 1/24/05

Art Unit

3762

-- **Th MAILING DATE of this communication app ars on the cover sheet with th correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Paper No. 11222004.
2. ☒ The allowed claim(s) is/are 2-10 and 12-59.
3. ☒ The drawings filed on 22 August 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachm nt(s)

- | | |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

DETAILED ACTION

1. Acknowledgment is made of applicant's amendment which was received by the Office on November 22, 2004.

2. Claims 1 and 11 are canceled. Claims 2-10 and 12-59 are active.

Terminal Disclaimer

3. Applicant's Terminal Disclaimer was received and approved on December 21, 2004.

Claim Rejections - 35 USC § 112

4. In view of applicant's claim modifications, the Examiner is withdrawing the 35 U.S.C 112 2nd paragraph rejections which were made against claims 31, 42, and 53 in the last Office action.

Claim Rejections - 35 USC § 102

5. Upon further reconsideration of applicant's cancellation of claims 1 and 11, and modifications to the claims, the Examiner is withdrawing the 35 U.S.C 102(e) rejection of Snell '705 which was made against claims 1, 10, 11, and 20 in the last Office action.

Double Patenting

6. In view of applicant's submission of an approved Terminal Disclaimer, the Examiner is withdrawing the Double Patenting rejections based upon the 6,221,011 and 6,277,072 U.S. patents, which were made against claims 1-10 and 51-59 in the last Office action.

Allowable Subject Matter

7. Claims 2-10 and 12-59 are now allowed.

Reasons for Allowance

8. The following is an examiner's statement of reasons for allowance:

Claims 8 and 18, as amended, now recite a system and corresponding method, respectively, for determining a reference baseline of patient information for automated remote patient care including the unique feature of an "analysis module" capable of collecting and analyzing "device measures sets" relative to "reference measures" in a "baseline" to determine a "patient status indicator". Unable to find these details in the prior art, the Examiner deems these claims and their depending claims to be allowable.

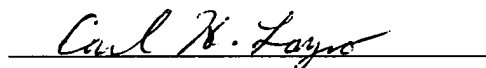
Similarly, independent claims 21, 29, and 40 also recite details regarding the analysis of "measures sets". These claims, and their depending claims, are deemed to be allowable for the same reasons stated previously in the last Office action.

Independent claim 51 recites details of a computer-readable storage medium holding code capable of "comparing one or more...collected device measures sets...to the reference

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measures set". Again, unable to find code capable of performing this function in the prior art, the Examiner deems this claim and its depending claims to be allowable.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

A handwritten signature in cursive script, reading "Carl N. Layno", is written over a horizontal line.

CARL LAYNO
PRIMARY EXAMINER

CHL

1/24/2005